

AKA GMP Standards Program Terms and Conditions

Last modified: May 3, 2023

The American Kratom Association (“AKA”) hosts a GMP Standards Program which provides for Participants to be included in the AKA Program and listed on AKA’s website as a participant (“Program”). A copy of the description for the Program can be found at www.amerikankratom.org (“Program Description”).

Participants who apply for, or participate in, the Program, agree to adhere to the Terms and Conditions set forth herein ("Agreement" or "Contract").

As an applicant for the Program, you, the applicant (“You”), on behalf of yourself as well as your company (the “Participant”), acknowledge that You have read and understand all terms and conditions set forth in this Agreement and included by reference.

By submitting an application for the Program to AKA, You and Participant agree to abide by all terms and conditions of this Agreement. This Agreement may be modified, from time to time, by AKA. Your continued participation in the Program, after a modification to the Contract, shall be binding on You and the Participant. If, as a result of such modification, Participant no longer wishes to participate in the Program, Participant must notify AKA, in writing of termination within thirty (30) days of the modification. In the absence of any such notification, Participant shall be deemed to have agreed to the modification of this Contract. It is Participant’s responsibility to review this Agreement at www.amerikankratom.org on a regular basis to monitor any modifications to the Contract. Participant’s continued use and/or promotion of Participant’s voluntary participation in the Program constitute(s) Participant’s manifestation of assent to any such modification, limitation, change, or replacement. You acknowledge that this Agreement is legally binding under the laws of Virginia, and, upon submission, Participant has entered into a legally enforceable Contract with AKA, as though a physical signature was provided. If You do not agree to the terms and conditions of this Agreement, You and Participant are expressly prohibited from applying for, or continuing to participate in, the Program.

This Agreement is effective as of the date of your participation in the Program.

1. REPRESENTATIONS AND WARRANTIES.

Electronically submitting this Agreement, You, on behalf of Participant, hereby represent, warrant that:

(a) You are at least eighteen (18) years of age, and You have the right, power, legal capacity, and appropriate authority to contract on behalf of Participant.

(b) AKA has not, is not, and will not make any guarantees, promises, or warranties that, as a result of participation in the Program, Participant will gain any financial benefit.

(c) AKA is not owned or affiliated with, and does not sponsor or endorse any particular company applying for voluntary participation in the Programs.

(d) AKA makes no representations regarding the quality, safety, morality, or legality of any aspect of a participant's business, products, or services.

2. APPLICATION AND APPROPRIATE USES.

AKA does not guarantee or promise approval of Participant's participation in the Program and may deny participation if Participant fails to meet the qualification requirements, complete the application process, or fulfill the responsibilities as outlined by this Agreement. You acknowledge that your Program application submission is at your own risk and that, in the event that Participant is not admitted to the Program, each of You and Participant remain legally bound by the terms and conditions of this Agreement.

(A) REQUIREMENTS

Participation in the Program requires the following:

(1) Electronic submission of the Program application;

(2) Approval by a third-party auditor to ensure Participant's product and processes comply with the Program standards set forth in the Program Description. Such approval must be in writing, dated within ninety (90) days of the date of submission, and provided to AKA.

(B) Assignment. You hereby acknowledge and agree that each of You and Participant are prohibited from assigning the rights and obligations under this Agreement.

(C) Termination. AKA reserves the right, in its sole discretion, to terminate Participant's voluntary participation in the Program if such participation results in, or is the subject of, legal action or threatened legal action, against AKA, without regard to whether such legal action or threatened legal action is ultimately determined to be with or without merit. In the event Participant fails a "spot inspection," an audit, or it is discovered by AKA to have engaged in any conduct AKA perceives, in its sole discretion, to be determinantal to AKA or the Program, AKA may terminate Participant's participation in the Program, and each of You and Participant will be required to cease-and-desist all promotion of and other reference to your participation in the Program. AKA reserves the right to publish Participant's terminated status on its website.

AUDIT.

You agree that, within ninety (90) days of the date of Your submission of this application, Participant shall submit to a third-party audit to ensure Participant's product and processes comply with the Program standards set forth in the Program Description. The auditor shall provide the audit results to AKA within such ninety (90) day period as a condition precedent to AKA's acceptance of Participant's participation in the Program. Thereafter, Participant shall submit to an annual third-party audit and provide the audit results to AKA upon receipt or AKA may terminate Participant's participation in the Program and this Agreement.

3. PROFESSIONAL CODE OF CONDUCT AND ETHICS.

You agree that Participant's voluntary participation in the Program(s) is subject to a professional code of conduct policy, which prohibits:

- Criminal conviction;
- False or fraudulent representations;
- Slanderous statements in Federal Communications Commission regulated media or electronic media; and
- Libelous statements in print or electronic media.

You agree that Participant will, in connection with the Program, conduct business and commercial activities in a manner that maintains the good name, goodwill and reputation of AKA, its employees, directors, and affiliates, and the Program. Without limitation, Participant: (i) will not engage in any illegal, false or deceptive acts or practices; (ii) will not make any representations, warranties, or guarantees on behalf of AKA; (iii) will comply with all applicable laws and regulations (including, but not limited to laws regulating Participant's professional status and licensing requirements) and all other applicable governmental laws, statutes and regulations; and (v) will comply with all intellectual property and proprietary rights protections for AKA.

You acknowledge and agree that (a) violations of the Professional Code of Conduct constitutes a breach of this Contract; and (b) Participant is to conduct its business activities in an ethical manner and in accordance with the laws of the Commonwealth of Virginia and the United States of America.

5. INTELLECTUAL PROPERTY AND BRANDING

You agree that AKA holds all rights, title, and interest in all AKA publicity and intellectual property, including other rights related to intangible property, unless otherwise indicated. You agree that AKA materials are the intellectual property of AKA and Participant's use, assignment, and/or possession of AKA materials may be terminated in AKA's discretion. Participant's use of

any AKA mark, logos, and materials (“AKA Branding”) is only permitted for as long as Participant is an active Program participant. The removal of all AKA Branding must take place immediately following termination of participation in the Program.

6. LIMITATION OF LIABILITY.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT AKA, ITS OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, INDEPENDENT CONTRACTORS, SERVICE PROVIDERS, OR CONSULTANTS, OR ANY OF THEIR RESPECTIVE DIRECTORS, EMPLOYEES, AND AGENTS, WILL NOT BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR ANY OTHER LEGAL THEORY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, COMPENSATORY, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, EVEN IF AKA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

In no event shall AKA, or any of its officers, directors, employees, agents, contractors, partners, affiliates, or advertisers be liable to You, Participant, or any other person, for any damages, including for loss of profit or goodwill, for any matter, regardless of whether such liability is asserted on any breach of this Contract and even if AKA has been advised of the possibility of such damages.

7. INDEMNIFICATION.

You, on behalf of Participant, agree to defend, indemnify and hold harmless AKA and its contractors, agents, employees, officers, directors, shareholders, and affiliates from any loss, liability, damages or expense, including reasonable attorneys' fees, resulting from any third-party claim, action, proceeding or demand related to (a) Participant's use or promotion of the Program, (b) any breach of this Contract, or (c) any negligent or willful act by Participant in connection with the Program.

In addition, You agree to indemnify and hold AKA harmless from any loss, liability, damages or expense, including reasonable attorneys' fees, arising out of any breach of any representation or warranty provided herein or from any negligence or willful misconduct by You.

8. DISPUTE RESOLUTION.

You understand and agree that AKA is located in the Commonwealth of Virginia. Therefore, this Agreement will be interpreted under and governed by the laws of the Commonwealth of Virginia without giving effect to any conflicts of laws principles. You agree that, by participating in the Program, Participant submits to the personal jurisdiction of the Courts located in the City of Alexandria, Virginia, and that any claim or dispute arising out of the Program will be exclusively resolved through the Courts located in the City of Alexandria, Virginia.

9. NOTICES.

You agree that all notices (except for notices concerning breach of this Contract) from AKA to Participant may be posted on www.americkratom.org. Notices concerning breach of Contract will be sent to the point-of-contact's email address, as maintained on file with AKA. Delivery of all notices shall be deemed to have been made five (5) days after the date sent.

10. ENTIRE AGREEMENT.

You agree that this Agreement, including policies and agreements referenced herein, constitutes the complete and entire Agreement between Participant and AKA regarding the Program. You understand and agree that any additional provisions that may appear in any communication with you unless accepted by AKA in a signed writing.

11. SEVERABILITY.

You agree that the terms of this Contract are severable. If any part of this Contract is determined to be unenforceable or invalid, that part of the agreement will be interpreted in accordance with the applicable law as closely as possible, in line with the original intention of both parties to the Contract and the remaining terms and conditions of the Contract (not deemed unenforceable) will remain in full force and effect.

12. WAIVER.

The failure of AKA to enforce any of the provisions within this Contract or its incorporated agreements and policies against Participant or others shall not be construed as a waiver of the right of AKA thereafter to enforce such provisions. You understand and agree that no term or provision of this Agreement will be deemed to have been waived and no breach will be deemed to have been consented to unless such waiver or consent is in writing and signed by AKA.

13. FORCE MAJEURE.

AKA will make every effort to keep the Web Site, www.americkratom.org, operational and up to date. However, certain difficulties and other factors outside of its control, may from time to time, result in temporary service interruptions. You agree not to hold AKA liable for any of the consequences of such interruptions.

14. CLAIM LIMITATIONS.

YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT MUST BE BROUGHT BY YOU WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. FAILURE TO ASSERT A CAUSE OF ACTION WITHIN ONE (1) YEAR WILL PERMANENTLY BAR ANY AND ALL RELIEF.

PARTICIPANT WILL ONLY BE PERMITTED TO PURSUE CLAIMS AGAINST AKA ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING AND PARTICIPANT WILL ONLY BE PERMITTED TO SEEK RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ON AN INDIVIDUAL BASIS.

15. NO THIRD-PARTY BENEFICIARIES.

Nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations, or liabilities under or by reason of this Contract, except as expressly provided in this Contract.

16. ATTORNEY'S FEES AND COSTS

Should you commit any breach of this Agreement, Participant shall be liable to AKA for any and all reasonable costs and expenses incurred by AKA in enforcing its rights hereunder.